IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1569 of 2002 (S/B)
(Old No. 5414 of 1994)

Bhagwan Singh Negi
S/o Sri Kedar Singh Negi
Presently working as Chief Veterinary Officer,
Narendra Nagar, District Tehri Garhwal.
…….. Petitioner

Versus

The State of Uttar Pradesh
Through Secretary,
Animal Husbandry & Fisheries
Anubhag -1,
Lucknow. …….. Respondents

Mr. Rakesh Thapliyal, learned counsel for the petitioner.
Ms. Beena Pande, learned Standing Counsel for State of U.P.

Coram: Hon'ble P.C. Verma, J.
Hon'ble P.C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has prayed for a writ of certiorari for quashing the order dated 19.02.1990 contained in Annexure -4 to the writ petition and the order dated 11.11.1993 contained in Annexure -13 to the writ petition, whereby disciplinary proceedings were initiated against the petitioner by giving censure entry in his Annual Confidential Report and vide subsequent order the salary of the petitioner was withheld for the period he was under suspension. The petitioner has further prayed for a writ of mandamus directing the respondents to pay the entire arrears of salary to him from the date of suspension

i.e. 09.03.1988 till 19.02.1990 with all consequential benefits thereof.

2) Brief facts of the case, as narrated in the writ petition are that the petitioner was initially appointed on the post of Assistant Development Officer, Animal Husbandry in the year 1959. Thereafter, the petitioner was confirmed on the said post and he was permitted to join the training in the Veterinary College, Mathura. The petitioner completed his training in the year 1966 and thereafter he was appointed as Veterinary Assistant Surgeon. On this post the petitioner was also made permanent. While the petitioner was posted in Block Purola, District Uttarkashi in the year 1980, some misconduct was found on his part and he was placed under suspension and a chargesheet was issued to him. The petitioner replied the chargesheet. After getting the reply of the petitioner the suspension order was revived and the petitioner was given a minor punishment of censure which the petitioner has challenged in the writ petition. The petitioner has also prayed for the arrears of salary which has not been paid to him for the period of suspension.

3) Since the censure entry is not a major punishment, therefore, it was not incumbent on the Punishing Authority to have held full-fledged enquiry. After investigation, it was found by the Punishing Authority that it was a case of minor punishment and the petitioner was awarded a minor punishment. Rule 49 of the C.C.A. Rules provides that minor punishment can be given after calling for an explanantion. In the instant case, petitioner replied on the chargesheet which was considered as his explanation and

he was given a minor punishment. Therefore, the order of punishment was in accordance with the provisions of law. Since it was not a major punishment, therefore, the provisions of Chapter VIII Rule 54 (1)(b) of the U.P. Fundamental Rules shall not be attracted. Even otherwise, the petitioner has been promoted on the post of Chief Veterinary Officer, therefore, the censure entry has lost its significance. In these circumstances for the reasons as discussed above, the chargesheet and punishment awarded as to censure entry cannot be quashed and the writ petition is liable to be dismissed. The same is dismissed to that extent. However, the petitioner is entitled to full salary for the period of suspension which could not have been withheld in the manner it is done. Therefore, So far the arrears of salary for the period of suspension, is concerned the State Government is directed to pay the same to the petitioner within a period of one month from the date certified copy of this order is produced before it, if he was not paid so far. The writ petition is disposed of accordingly.

(P.C. Pant, J.) **(P.C. Verma, J.)**

Dt. 15th June, 2005.
H. Negi